Journal of Law & Social Studies (JLSS)
Volume 5, Issue 3, pp 554-563
www.advancelrf.org

Effect of Diminished Responsibility in Criminal Trials in Pakistan

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Abstract

The exceptions to criminal acts are accepted under every criminal justice system in the world. The doctrine of diminished responsibility provides relaxation in sentence to criminal under certain circumstances. It does not fully absolve the wrong doer from liability of the act; however, it may reduce the quantum of the sentence. Under the doctrine, in cases of murder only, the accused has to prove his mental illness, and further has to prove that due he could not understand the nature of his act. The doctrine of diminished responsibility is not fully recognized in criminal law of Pakistan, nevertheless, the higher courts have considered this doctrine in few cases. The doctrine of diminished responsibility puts the burden of proof on the shoulders of the accused to establish his mental incapacity to understand the effects of his act and when he succeeds to prove his mental incapacity, his sentence has been reduced from death to imprisonment of life by the courts. This doctrine may be made part of inevitable reforms of criminal justice system in Pakistan.

Keyword: Mental Incapacity, Responsibility, Lesser Sentence, Murder, Homicide Act.

Introduction

Diminished responsibility is a murder defense that, if successful, shifts the charge of unlawful homicide from murder to manslaughter. Criminal law of our country generally holds that responsibility of a person regarding commission of a significant crime may be evaluated according to any considerable mental impairment that person may have suffered. Existence of mental disorders that may be demonstrated to have significantly reduced the accused's mental capacity at the time of the murder is the key component of diminished responsibility.

In the nineteenth century, Scotland was the place from where the defense of diminished responsibility was originated. It was established by the courts of law there as a resource to prevent convictions of murder for those criminals who would otherwise be guilty of murder but failed to satisfy the strict criteria for the "insanity defense" (now known as the defense of mental illness), but whose mental state was still impaired.

Later on, legislation that encouraged the defense of diminished responsibility was passed in the United Kingdom.

Diminished liability was firstly implemented in the New South Wales in 1974 through lawmaking which was demonstrated on the United Kingdom's legislative framework.

In those days, there was a mandatory sentence of imprisonment for life for murder in New South Wales. Therefore, diminished responsibility helped the purpose to avoid a conviction of murder and resulting obligatory life imprisonment in those cases in which the culprit was mentally impaired but not mentally ill, as defined by the mental illness defense.

Presently, in four Australian states and territories i.e New South Wales, the Australian Capital Territory, Queensland, and the Northern Territory, the defense of diminished responsibility is admissible in criminal trials.

The study is qualitative, doctrinal and comparative. The method to undertake the study is descriptive in nature and general analyses of the area of study. Primary and secondary both sources of law will be utilized for proper exposition of the study.

What is Diminished Responsibility?

Diminish in its literal meaning means to become or to make something become smaller. Diminished responsibility is a partial defense to murder provided by statute.Diminished responsibility is one of the three special defenses which exist for the criminal offence of murder. According to *Oxford dictionary* the principle of diminished responsibility refers to an unbalanced mental condition that is deemed to make a person less accountable for a crime and to be grounds for a lesser charge but does not classify as an indication of insanity. According to *Cobuild Advanced English dictionary,*in legal terms, diminished responsibility is a defense that contends that the offender is not mentally competent to accept full responsibility for the crime.

The definition of diminished responsibility is provided in section 2 of The Homicide Act 1957 as:

> *'If a person kills another person or participates in that person's death, he cannot be found guilty of murder because of his mental disorder(whether brought on by the mind's retarded or halted development, any inherent reason, a sickness, or an injury) as significantly decreased his mental responsibility for his doings and oversights in doing or being a participant to the murder.'*

Origin of the Diminish Responsibility

The concept of diminished responsibility has its history in Islam as well as under the common law:

Under Islamic Law

In Islamic law, the doctrine has its existence on the ground that insane person is absolved from liability due to his insanity. According to one hadith of Holy Prophet (PBUH) narrated by Umar bin Khitab, the act of any person is depending on his intention. In another hadith, the Holy Prophet (PBUH) "acts are dependent on the intentions and everyone will his reward in consonance with his intention". As per the teachings of Islam, Allah doesn't take into account your money or appearance; instead, He pays attention to your hearts. As acts are connected with the intention, the Islam contemplates not only the crime but also intention of offender.

Under the English Law

Over a century ago, Scottish law gave rise to the doctrine of diminished responsibility. The concept that "weakness of mind" might change the nature of a crime is a judicial invention and it was firstly acknowledged in a case titled *H.M. Advocate v. Dingwall* by Lord Deas. In that case the charge was framed against the accused regarding the murder of his wife after having a substantial amount of whiskey. It was determined that mind of Dingwall had been impaired by numerous doses of delirium tremens and that he had likely undergone from epileptic fits. Lord Deas advised the jury that the defenses of the accused, insanity and intoxication were invalid, but that a conviction of culpable homicide (manslaughter) might be rendered if evidence of mental weakness became apparent. His Lordship states:

> *The prisoner's mental state might be an mitigating circumstance although but not enough to permit an acquittal on the ground of insanity; and the judge of trial court, therefore could not eliminate it along with all other circumstances from the contemplation of the jury here, in making their minds whether, that the prisoner was to be declared guilty of murder or culpable homicide* (*H. M. Advocate v. Dingwall*, 1914).

A statutory partial defense to murder known as diminished responsibility was introduced in Section 2 of the Homicide Act, 1957 which was as amended by the Coroners and Justice Act, 2009 (Coroners and Justice Act, 2009, sec. 52). It can only be raised by the defendant, who intentionally murders or is a party to a murdering, and the onus is on the defense (Coroners and Justice Act, 2009, sec. 52(2)) on balance of possibilities. The defense is partial because it may not completely absolve the liability, but if successfully pleaded, it may diminish the liability of the defendant from homicide to manslaughter(Coroners and Justice Act, 2009, sec. 52(3)) with the discretion of the Honourable Judge as to the sentencing.

Section 52 of the Coroners and Justice Act, 2009 encapsulates the essentials required for the defense. The defendant must suffer from abnormality of mental functioning arising from a recognized mental condition which impairs understanding, and/or rational judgment, and/or self control of the defendant. Further, the abnormality must offer a clarification for the conduct of the suspect, provided that the abnormality causes or is a substantial contributory factor in instigating the defendant to carry out that conduct. Hence, the defense entails four required elements; abnormality of mental functioning, a recognized medical state, significant weakening of one or more of the abilities, and an explanation for the killing.

It is pertinent to understand the history and inception of the defense while noting the similarities and differences in other defenses, so as to fully grasp the scope of the defense of diminished responsibility and its overlap with the other defenses. The defense was adopted by the Homicide Act 1957 derived from Scottish common law where the defense of diminished responsibility was established and recognized first. This was during the time when capital punishment and its abolition were in its initial stages of becoming a notable reform later in the law. It is interesting to note that the defense was enacted in spite of the decision made by the Royal Commission on the Capital Punishment to not recommend the introduction of the defense in its 1949-1953 report (*Royal Commission on Capital Punishment*, n.d.) and to extend the defense of insanity instead.

McNaughten Rules

The defense of insanity, also referred to as the McNaughten Rules, entails that the person at the time of the act was suffering from a mental illness that caused a defect in reasoning, making it impossible for him to understand the nature and quality of what he was doing or that what he was doing was wrong(*R v. McNaughten*, 1843). The defense of diminished responsibility, therefore, was

introduced with the purpose of covering cases that did not fit within the strict parameters of insanity. The discretion of sentencing under diminished responsibility made it a more popular defense than insanity as the latter followed hospitalization in a mental institute as a mandatory sentence(Criminal Procedure (Insanity) Act, 1964, sec. 5) until this position was changed in 1991 by giving the Honourable Judge the same discretion of sentencing as under the defense of diminished responsibility(Criminal Procedure (Insanity and Unfitness to Plead) Act, 1991).

The law of diminished responsibility, as it stood before the subsequent amendment in 2009, was enshrined under Section 2(1) of the Homicide Act 1957 as abnormality of mind, whether resulting from a state of halted or delayed mental development, any innate factors, or caused by illness or injury which significantly reduced his mental responsibility. It is interesting to note words of Lord Parker while clarifying a 'abnormality of mind' that is ' sufficiently wide to cover activities of mind from their all aspect, not just the observation of physical acts and matters, but also the capacity to decide rationally if an action is right or bad and the willpower to restrain one's actions in line with that rational decision' (*R v. Byrne*, 1960).

Abnormality of Mental Functioning

Subsequently, after several decades of criticism and a number of reform proposals, the requirement of ‘abnormality of mind’ grounded in the old law was supplanted with ‘abnormality of mental functioning’ with the additional prerequisite of the abnormality arising from a recognized mental state coupled with medical evidence. Substantial impairment of ‘mental responsibility’ was replaced with requirement of significant loss of one or more of the listed capacities and requirement of an explanation for killing, which makes it inappropriate to treat the defendant as fully responsible was added. Echoing the words of Lord Parker and keeping in view the reform proposals, the Coroners and Justice Act, 2009 formed a totally fresh defense of diminished responsibility.

Elements Required to Constitute the Defense

Following are the main elements which are required by law to constitute defence of diminish responsibility.

Abnormality of Mental Functioning

The first required component of this new defense is abnormality of cerebral functioning(Coroners and Justice Act, 2009, sec. 52(1)), which is not well-defined but the same is regarded conventionally as an factually substantial nonconformity from what a reasonable man would consider normal. Hence the defense can be raised even when the defendant knew that it is wrong what he is doing, so long as his condition involves a specified abnormality which arose from a recognized medical condition.

Recognized Mental Condition

The second required element is a ‘recognized mental condition(Coroners and Justice Act, 2009, sec. 52(1)(a))’ coupled with medical evidence from two medical experts. These recognized mental conditions may also be found in authoritative classificatory lists of International Classification of Diseases of World Health Organization and Diagnostic and Statistical Manual of Mental Disorders of American Psychiatric Association which are deemed to be ‘accepted’ by the Ministry of Justice. However, the conditions are not limited to these lists. Jurisprudence in this regard, predating the 2009 amendment in the law, is likely to be continued to be accepted, however, through a narrower lens. The existence of a mental condition must be such that it covers both physical and psychological condition (Mackay, n.d.).

Impairment of One or More of the Abilities

The third required element is significant impairment of one or more of the capabilities stated under Section 52(1A) of the Coroners and Justice Act 2009(Coroners and Justice Act, 2009, sec. 52(1)(b)). These are to understand what the defendant was doing, to form a rational judgment or to exercise self-control(Coroners and Justice Act, 2009, sec. 52(1A)). The threshold of substantial impairment is higher than what merely passes the trivial and the same is upon the jury to decide on balance of probabilities and with directions from the Honourable Judge.

Directions to the jury are to be avoided to be given in terms of borderline of insanity as identified in the cases from the time of its inception(*R v. Spriggs*, 1958). Lord Parker has clarified that it is a substance of degree and it is not merely some damage but one that can properly be called significant. In this matter, members of the jury may properly disagree with doctors (*R v. Byrne*, 1960).

Explanation for the Acts and Omissions

The fourth required element is that the irregularity of mental functioning delivers an clarification for the doings and oversights of the defendant in acting or being a party to the murder(Coroners and Justice Act, 2009, sec. 52(1)(c)). This explanation can be provided only where it causes or significantly contributes in causing the defendant to carry out the conduct(Coroners and Justice Act, 2009, sec. 52(1B)) making it inappropriate to treat the defendant as fully responsible. The latter requirement is also referred to as the causal requirement.

Need of Expert Evidence

The requirements of expert evidence and directions to the jury coupled with the entitlements of the jury pose difficulties in trial and leads to criticism. The requirement of medical evidence from an expert was also grounded in the old law as Lord Shaw upheld that the same is a practical necessity(*R v. Dix*, 1982). The mere existence of such evidence does not compel the jury to reach a favourable verdict. The jury must reach the verdict keeping in view not only the said evidence but also upon satisfaction of the other thresholds of the defense as well as all facts and circumstances of the particular case(*R v. Walton*, 1978). The expert evidence does not only establish existence of mental abnormality ascending from a recognized medical state but also the degree of impairment. Hence, the defense without the medical evidence from an expert seems, indeed, impossible(1984b).

Intoxication as a Defense

The cases of intoxication by alcohol, drugs and other substances also pose difficulties. It is interesting to note that the Scottish law has incorporated in statute that impact of drugs, alcohol or any other material neither constitutes abnormality of mind nor prevents such abnormality from being established(Criminal Procedure (Scotland) Act, 1995, sec. 51B(3)). While under English law, chronic alcoholism is held to be sufficient as a reason of mental irregularity for the purposes of the defense(*R v. Tandy*, 1988) albeit with strict limits but solely intoxication will fail. However, intoxication while suffering from an abnormality of mind is a complex situation. In the case of Wood, the defendant suffering from alcohol dependency syndrome succeeded with the defense for killing while intoxicated by alcohol(*R v. Wood*, 2009). Directions to the jury in this regard are to be given in terms of ignoring intoxication and considering other relevant factors that fall within the meaning of the statute(*R v. Egan*, 1992). Drug induced psychosis coupled with a prodromal states on the other hand are deemed to be insufficient constituents(*R v. Lindo*, 2016, para. 59).

The case of Brennan (*R v. Brennan*, 2014) has shed light on a significant procedural aspect with regards to the defense. Medical evidence put forth by a medical expert which is not refuted by the

prosecution with evidence of their own medical expert, will result in withdrawal of a charge of murder from the jury. In practice, it is indeed upon the doctors rather than the lawyers to decide whether or not the defense should be pleaded as well as the probability of its success. But this is at an earlier stage. Once the doctor has approved, the matter rests in the hands of the jury. It is pertinent to note Lord Hughes pointing out that 'trial is by jury and not by expert' and as pointed earlier those entitlements the same has crucial effect on the fate of the trial.

Evidence at Appeal Stage

Further complications may also arise when fresh evidence is admitted at a later stage. The principles concerning to the admission of fresh evidence on appeal stem from the test of interest of justice which is also incorporated in Section 23 of the Criminal Appeal Act, 1968 as modified by Criminal Appeal Act 1995. The Court of Appeal may receive or allow to produce any evidence if they consider it is essential or convenient in the interests of justice(Criminal Appeal Act, 1968, sec. 23(4)), which was not presented in the proceedings from which the appeal is preferred. Lord Justice Thomas has held that the decision of admitting fresh evidence is specific to the case and facts with anextensive discretion based on the interests of justice, however, there must be a reasonable and persuasive explanation for not raising the evidence at trial to satisfy the test of interest of justice(*R v. Erskine*, 2010, para. 39). Hence, two situations normally arise under such circumstances; one situation is when the fresh evidence is in support of the plea taken at trial and the other situation is when the new stance is against the plea taken at trial.

Lord Bingham, at an earlier point in time, while discussing Section 23 and the essence of admitting new evidence has noted that the courts have wisely and correctly recognized that rigid, mechanical standards cannot impose restrictions on the statutory discretion provided by section 23. However, the cases do point to a few characteristics that are such which militate more or less strongly contrary to the acceptance of new evidence: for example, an intentional decision of a defendant whose decision making abilities are unaffected not to present a known-to-be-available defense to the trial jury; evidence regarding mental deviation or significant weakening provided after years from the commission of an crime and in conflict with the evidence which was available at the time occurrence; testimony of an expert which is based on unsupported, untrustworthy, or erroneous factual premises, or on unpersuasive evidence for any other reason.However, even characteristics like these do not always constitute resounding objections in each case.The Court's contemporary discretion allows it to confirm that, in the last instance, offenders are sentenced for the offenses they have committed rather than for any prospective psychological shortcomings(*R v Criminal Cases Review Commission*, 2000, para. 44). This attempt by Lord Bingham to draw a line between psychological failings and crimes actually committed is imperative to understanding the essence of the law. Difficulties nevertheless arise when the law is put into practice.

At this point, it may be helpful to understand the case of Ahluwalia and the issues pertaining to battered persons where they kill their abuser(*R v. Ahluwalia*, 1992). Prior to the amendment of 2009, the defense of provocation and the defense of diminished responsibility were combined with each other. The plea taken by the defendant grounded in provocation was rejected at trial, however, the defendant was successful with her plea of diminished responsibility in light of new evidence. It has been argued by Wells (1994) that such cases are more suited to self-defense rather than diminished responsibility or provocation. It is true that such cases cannot fall under the defense of loss of self-control either which is the second partial defense to murder enshrined under Section 54 of the Coroners and Justice Act 2009. The defense is seen to be a curbed version of the defense of provocation and requires that the murder resulted from loss of self-control which had a qualifying trigger andan objective test related to it(Coroners and Justice Act, 2009, sec. 54). The qualifying triggers are incorporated in the statute and there are only two; fear of serious violence and things said/done which constitute circumstance of extremely grave character causing the defendant a

justifiable sense of being wronged. The statute expressly disregards things said/done that constitute sexual infidelity(Coroners and Justice Act, 2009, sec. 55).

Hence, it is evident that cases such as Ahluwalia may not be able to conform to the requirements of the defense. In line with the argument of Wells, if the cases of battered women are more suited to self-defense, the same being a complete defense, would lead to an acquittal rather than a reduced sentence(1984a). One may also argue that 'battered women syndrome' be added in the authoritative list of recognized mental conditions also be referred to as its other name; 'battered person syndrome' to avoid ousting men and enabling human beings, suffering from the same, to take the plea of diminished responsibility. However, mere addition of the condition to the list and being recognized may not mean that the defense would succeed.

Two cases of the Privy Council would be pertinent to contrast at this juncture. The first one is Daniel v. The State(*Daniel v. The State (Trinidad and Tobago)*, 2012) which involves the first aforementioned situation where the plea taken at trial was in line with the medical evidence that furnished three years after the conviction. The second is Chandler v. The State(*Chandler v. The State (Trinidad and Tobago)*, 2018) which involves the second situation wherein the new medical evidence was contrary to the evidence produced in the case at trial stage. In the former the defense succeeded however in the latter the same failed. However, the facts of Daniel were indeed 'most unusual' as Lord Dyson pointed out. The defendant had a previous good character but committed murder of his cousin, who was his close friend, followed by self-mutilation and a claim that a demon inside his head made him do it. The same was held to be classic indicator of borderline personality disorder and the case was remanded in light of fresh evidence and interests of justice (*Daniel v. The State (Trinidad and Tobago)*, 2012, para. 43). In comparison, the latter case involved killing by the defendant in a prison where both were prisoners. The defendant advanced a different case at trial and this case was regarded, unlike Daniel, as rather 'troubling' (*Chandler v. The State (Trinidad and Tobago)*, 2018, para. 25). As a result, admission of new evidence was refused. But it is interesting to note that Lord Kerr and Lord Lloyd Jones disagreed on the reasoning that non advancement of the defense earlier may be reflective of an attempt to secure acquittal and does not as such show that a person has not mental abnormality(*Chandler v. The State (Trinidad and Tobago)*, 2018, para. 52).The Lords held in their dissenting opinion that they would have allowed the appeal and remanded the case for trial. Hence it can be argued that opinions may differ as jurisdictions differs and so does the fate of the trial and as a result of the human being at trial.

Standard of Proof

The standard of proof as required to be proved by the defense while claiming the defense of diminished responsibility is that the accused/defendant has to prove his mental illness due to which he was incapable to recognize the nature of his act. This defense can only be raised by the defendant, who intentionally kills or is a party to a killing, and the onus lies on the shoulder of defense on balance of possibilities. The defense is partial as it may not completely absolve the liability, but if successfully pleaded, it may decrease the liability of the defendant from homicide to manslaughter with the discretion of the Judge as to the sentencing.

Reverse Burden of Proof

When an accused claims the defense under the doctrine of diminished responsibility, the onus of proof is on the shoulder of accused to prove that he was suffering from mental illness and was incapable to comprehend the nature of his act at the time of commission of offence of murder.

Applicability on Offences

The Doctrine of Diminished Responsibility is applicable on offence of murder only and do not applicable to attempt to commit a murder and not applicable to conspiracy of murder. It is partial defense which lesser the level of sentence of accused.

Implications and Effect on Trial

In Doctrine of diminished responsibility, the accused has to prove his mental sickness while judging the nature of his actat the time of occurrence. If he accused succeed in proving the diminished responsibility defense then its outcomes in conviction of accused in manslaughter instead of the intentional murder and his sentence is reduced to the life imprisonment. Diminished responsibility is a statutory partial defense to murder enacted under Section 2 of the Homicide Act, 1957 which was as amended by the Coroners and Justice Act, 2009(Coroners and Justice Act, 2009, sec. 52). It can only be raised by the defendant, who intentionally murders or is a party to a murder, and the onus is on the shoulder of defense (Coroners and Justice Act, 2009, sec. 52(2)) on balance of probabilities. The defense is partial as it may not completely absolve the liability, but if successfully pleaded, it may diminish the liability of the defendant from homicide to manslaughter(Coroners and Justice Act, 2009, sec. 52(3)) with the discretion of the Honourable Judge as to the sentencing.

The Lahore High Court,in Juma Khancase reduced the sentence of death of the accused into life imprisonment by applying the diminished responsibility defense.

Comparative Analysis of Doctrine

In comparison to other jurisdictions, *the Scottish law* provides that Plea of diminished responsibility requires that the defendant's capacity to decide or exercise control over actions that would normally result in a murder conviction was significantly diminished at the time of the crime due to a mental syndrome(Criminal Procedure (Scotland) Act, 1995, sec. 51B(1)). In *Australia*, the defense is incorporated under a statute which demands irregularity of mind that results from a state of arrested or delayed mental growth, inherent causes, or caused by illness or injury that significantly reduced the person's capacity to understand what the person is doing, control his actions, or know that he ought not to be doing the act or omission (Criminal Code, 1899, sec. 304A).

On the other hand, the *law of Pakistan* does not incorporate the defense of diminished responsibility in its statute but it recognizes the defense. Pakistan also still has death penalty incorporated in its legal system. A similar provision exists in Section 84 of the Pakistan Penal Code under ‘General Exceptions’ with the heading; act of a person of unsound mind. The provision provides thatnothing which is done by a person who, at the time of doing it, is unable to recognize the nature of the act or that he is doing what is either illegal or against the law due to unsoundness of mind is not considered an offense(Pakistan Penal Code (Act XLV of 1860), n.d., sec. 84). In 1962 a plea of abnormality of mind was raised by the defendant which fell short of unsoundness of mind (*Muhammad Shafi v. The State*, 1962). The court pointed that establishing incapability of knowing what the defendant was doing at that time, was necessary and no evidence was available to establish the same in that specific case. The plea, therefore, did not succeed but the Honourable Supreme Court kept the reduced sentence given by the High Court, intact.

The Lahore High Court agreed in the case of Juma Khan that the idea of severity of criminal responsibility has undergone gradual and extensive changes due to developments in medical and psychiatric sciences (*Juma Khan v. The State*, 2003, para. 22).The Honourable Court, while discussing the defense of Diminished responsibility as enshrined under the English law, noted that acceptance of the defense and shaping it into law is a requirement that has been overlooked. The defendant was sentenced to death for shooting some boys as he was ‘disturbed by their game of

cricket'(*Juma Khan v. The State*, 2003, para. 29). It was however established by medical evidence pertaining to 1966 that the defendant suffered from severe depressive illness, hallucinations, delusions and paranoid ideas.

It is to be noted that some legal framework such as that of Pakistan does not involve the role of jury. Whether this serves as an advancement or a deterrent, is an entirely separate topic of debate. However, Wilson has argued that sympathy is a factor that plays a part in the role of jury(Wilson, 2017). He basis this theory by contrasting the infamous Yorkshire Ripper case and the case of Price. The defense succeeded in the latter however failed in the former despite strong medical evidence that the defendant Peter Sutcliffe suffered from paranoid schizophrenia. In his defense one of his statements were that he was on a mission to rid the world of prostitutes and killed 13 women. Wilson argues that pivoting on sympathy, the jury may reject the defense despite existence of strong medical evidence and vice versa. It is also noteworthy that the condition of paranoid schizophrenia is increasingly seen in the legal jurisprudence. In a similar Pakistani case of Imdad (*Safia Bano v. Home Department Government of Punjab*, 2017) the defendant was sentenced to death and subsequent medical examination revealed that he also suffered from paranoid schizophrenia. The Honourable Court took the opportunity to dilate upon the meaning of mental disorder under Pakistani law and the condition of paranoid schizophrenia and held that the same is not a perpetual cerebral disorder but rather an imbalance dependent upon levels of stress which may increase or decrease it. The Honourable Court held that paranoid schizophrenia was not a condition which can be made basis to term the defendant as lunatic and hence it failed to fall within the meaning of cerebral disorders enshrined under the Mental Health Ordinance, 2001 (*Safia Bano v. Home Department Government of Punjab*, 2017, paras. 10–12). Arguably, if the same set of circumstances took place within the English jurisdiction, the likelihood of Imdad succeeding with his plea would has significantly increased.

Conclusion

The new defense of diminished responsibility under English law, therefore, has curbed the wide scope which existed in previous law but at the same time has created a yardstick which did not exist before. The plethora of cases before the competent Judiciary all over the globe combined with the advancements in science and medicine, by now, should have drawn a clear line between intentional committing of crimes and psychological failings of the mind. Reform of this law, however, does not seem to end at this juncture. Law and jurisprudence in this regard is still spinning in the wheel of development despite the repetition of same human behaviour over a span of decades and the rarity of circumstances that similarities cannot be drawn to. Some may argue that collateral damage is inevitable but the same is also highly unacceptable since it involves a matter of human life. Merely because one jurisdiction has, for now, made something expendable does not mean it is truly expendable. The development in this regard will benefit at the international level when with every spin it continues to advance interests of justice with an aim to salvage and rehabilitate rather than annihilate, while bringing a higher degree of clarity in the law.

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